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14
15 UNITED STATES BANKRUPTCY COURT
16 DISTRICT OF NEVADA

17 —ooOoo—

18 In Re:
19 USA COMMERCIAL MORTGAGE
COMPANY, et al.

Case Nos.:
BK-S-06-10725-LBR
BK-S-06-10726-LBR
BK-S-06-10727-LBR
BK-S-06-10728-LBR
BK-S-06-10729-LBR

20 Debtors.

21
22 JOINTLY ADMINISTERED
Chapter 11

Affects:

- 23 ☒ All Debtors
24 ☐ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
25 ☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
26 ☐ USA Securities, LLC

Hearing Date: N/A
Hearing Time: N/A

**EMERGENCY EX PARTE MOTION
FOR CONTINUANCE OF HEARING
ON APPELLANTS' MOTION FOR
LIMITED STAY PENDING APPEAL**

1 The Lenders Protection Group, a group of investors/lenders in USA Commercial
 2 Mortgage Company ("USACM"), as identified on the *Statement Of The Law Offices Of*
 3 *Alan R. Smith Pursuant To Bankruptcy Rule 2019* filed herein on December 6, 2006, and
 4 as supplemented thereafter ("LPG"), through its counsel, Alan R. Smith, Esq., and the
 5 Charles B. Anderson Trust; Rita P. Anderson Trust; Baltes Company; Kehl Family
 6 Members and Mojave Canyon, Inc., through its counsel Janet L. Chubb, Esq. of Jones
 7 Vargas (the "Jones Vargas Direct Lenders") (the LPG and the Jones Vargas Direct Lenders
 8 shall collectively be referred to as "Appellants"), hereby requests a continuance of the
 9 hearing set for March 1, 2007, on their *Motion For Limited Stay Pending Appeal* (the "Stay
 10 Motion").

11 1. Appellants filed their Motion For Stay on February 20, 2007, and at that time
 12 also filed a Motion For Order Shortening Time for the hearing on the Motion.

13 2. On February 22, 2007, this Court entered an *Order Shortening Time*,
 14 pursuant to which the Stay Motion was set to be heard on March 1, 2007, with oppositions
 15 to the Motion due on February 28, 2007.

16 3. On February 28, 2007, shortly before noon (PST), the Appellees-Debtors
 17 filed their *Opposition To Motion For Limited Stay Pending Appeal*, which is 73 pages long
 18 (6 pages of which consist of the caption, table of contents and table of authorities) (the
 19 "Debtors' Stay Opposition"). The Stay Opposition exceeds the 20-page limit for
 20 oppositions established by LR-9014(f) by 53 pages. Thus, shortly after Noon on February
 21 28, 2007, the Appellees-Debtors filed an *Ex Parte Motion To Exceed The Page Limit*,
 22 which has yet to be considered by this Court.

23 4. Also on February 28, 2007, shortly before noon (PST) the Official Committee
 24 of Equity Security Holders USA Capital First Trust Deed Fund, LLC, filed an *Opposition*
 25 *To Motion For Limited Stay Pending Appeal* and a *Joinder* in the Appellees-Debtors' Stay
 26 Opposition (the FTDF Stay Opposition").

27 5. Appellants request a continuance of the March 1, 2007 hearing of a sufficient
 28 time to allow Appellants to file a formal written reply to the Debtors' Stay Opposition and

1 the FTDF Stay Opposition. The Oppositions, together with the supporting *Declaration of*
 2 *Susan M. Smith*, total approximately 93 pages. Appellants have less than 24 hours to
 3 review, digest and formulate responses to the numerous arguments propounded in
 4 opposition to the Stay Motion. Appellants will be substantially prejudiced if they are
 5 required to go forward with the hearing because they will not be afforded a sufficient
 6 opportunity to brief the issues raised in the Oppositions and prepare for oral argument.

7 6. At approximately 1:30 p.m. (PST) on February 28, 2007, Counsel for
 8 Appellants contacted counsel for Appellees-Debtors to request a stipulated continuance of
 9 the Stay Hearing. *See Declaration of Kevin A. Darby In Support of Motion To Continue*
 10 *Hearing*. Appellees' counsel indicated that she would discuss the matter with her client and
 11 the Committees and determine whether a stipulated continuance was agreeable. *Id.* At
 12 approximately 3:30 p.m. (PST) Appellants' Counsel heard back from Appellees' Counsel,
 13 who explained that she was unable to reach all interested parties necessary to consider the
 14 requested continuance and suggested that Appellants proceed to the Court by way of the
 15 instant Motion.

16 7. Appellants ask that the Stay Hearing be continued for one-week, subject to
 17 the availability of the Court's calendar, and that Appellants be given sufficient time to file
 18 a reply brief in response to the Oppositions.

19 DATED this 28th day of February, 2007.

20 LAW OFFICES OF ALAN R. SMITH

21 /s/ Alan R. Smith

22 By

23 ALAN R. SMITH, ESQ.

24 Attorney for the Lenders Protection Group